

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

COMMON GROUND HEALTHCARE
COOPERATIVE,

Plaintiff,
on behalf of itself and all others
similarly situated,

vs.

THE UNITED STATES OF AMERICA,

Defendant.

No. 1:17-cv-00877-KCD
(Judge Davis)

JOINT STATUS REPORT

Pursuant to this Court's November 14, 2022 Order, the parties submit this joint status report. On June 21, 2021, the United States Supreme Court denied Plaintiff Common Ground Healthcare Cooperative's petition for a writ of certiorari (No. 20-1200) seeking review of the Federal Circuit's September 30, 2020 decision entering judgment consistent with the Federal Circuit's decision in *Community Health Choice, Inc. v. United States*, Nos. 2019-1633, -2102, 2020 WL 4723757 (Fed. Cir. Aug. 14, 2020). The Supreme Court also denied the Government's conditional cross-petition for certiorari regarding the same (No. 20-1536). *See* Orders List (U.S. June 21, 2021). Additionally, on that same day, the Court denied the petition for writ of certiorari and the Government's conditional cross-petition in *Maine Community Health Options v. United States* (No. 20-1162), which also sought review of the Federal Circuit's August 14, 2020 decision. *See* Orders List (U.S. June 21, 2021)

The parties' resolution efforts are continuing at this time, and the parties respectfully request that the stay of this matter continue for an additional 60 days, at which time a joint status report will be filed. At present, Class counsel, as well as attorneys representing other plaintiff health plans, are engaged with counsel for the Government in talks regarding potential avenues for resolving the CSR matters. Specifically, the parties are working to develop proposals and

methodologies that could resolve the damages and mitigation issues in the CSR cases without further litigation or streamline resolution of these cases. On December 3, 2021, counsel for a large number of plaintiff health plans shared a proposal with the Government. On April 28, 2022, the Government responded to Plaintiffs' proposal, and Plaintiffs responded on May 23, 2022. The parties participated in a settlement-related call on September 1, 2022. Plaintiffs sent follow up correspondence on September 15, 2022. The Government responded on November 10, 2022 regarding the proposed settlement methodology. Discussion among the parties and stakeholders has been productive and continued, including, e.g., Plaintiffs requesting further data from the Government. Plaintiffs anticipate sending further correspondence to the Government shortly. Further, both Government counsel and Class counsel will need to consult with numerous stakeholders before moving forward with any proposal. The parties are also working together to present the Court with a joint stipulation for entry of partial final judgment as to CSR damages the Government owes Plaintiff for 2017 in this case.

Good cause exists for the Court to continue the stay of this case. The parties are working together to determine whether they may efficiently resolve this matter without further litigation or streamline a potential resolution. The complexity of the CSR matter and the number of interested stakeholders necessitates that the parties be afforded additional time for these efforts. To this end, the parties propose that they file a status report by March 10, 2023, in which the parties will update the Court on these efforts.

DATED: January 9, 2023

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

/s/ Andrew Schapiro

Andrew H. Schapiro
andrewschapiro@quinnemanuel.com
191 N. Wacker Drive, Suite 2700
Chicago, Illinois 60606
Telephone: (312) 705-7400

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

PATRICIA M. McCARTHY
Director

/s/ Claudia Burke
CLAUDIA BURKE
Assistant Director

Facsimile: (312) 705-7401

/s/ Adam Wolfson

Adam B. Wolfson

adamwolfson@quinnemanuel.com

865 S. Figueroa Street

Los Angeles, California 90017

Telephone: (213) 443-3000

Facsimile: (213) 443-3100

*Attorneys for Plaintiff Common Ground
Healthcare Cooperative and the Class*

/s/ David Kerr

DAVID M. KERR

Trial Attorney

Commercial Litigation Branch

Civil Division

U.S. Department of Justice

P.O. Box 480

Ben Franklin Station

Washington, DC 20044

Telephone: (202) 305-7597

Facsimile: (202) 307-2503

Email: Chris.Carney@usdoj.gov

OF COUNSEL:

ALBERT S. IAROSI

Senior Trial Counsel

U.S. Department of Justice

*Attorneys for Defendant United States of
America*